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Foley & Lardner, LLP
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Washington, DC 20007

In re Application of :
SOWERBY, et al. :
PCT No.: PCT/NZ04/00086 :
Application No.: 10/550,547 :
Int. Filing Date: 07 May 2004 :
Priority Date: 16 May 2003 :
Atty. Docket No.: 061967-0102 :
For: METHOD AND APPARATUS FOR MIXING :
SAMPLE AND REAGENT IN A SUSPENSION :
FLUID :

DECISION ON PETITION

UNDER 37 CFR 1.47(a)

08/29/2006 SHASHEIR 00000001 190741 10550547
Sale Ref: 00000001 DHH: 190741 10550547
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This decision is in response to applicant's "Petition Under 37 C.F.R. § 1.47" filed 10 August 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 07 May 2004, applicant filed international application PCT/NZ04/00086 which claimed priority to an earlier application filed 16 May 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 16 November 2005.

On 26 September 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 21 June 2006, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 10 August 2006, applicant filed the present petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of joint inventor Stephen J. Sowerby.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. With the filing of the present petition and accompanying papers, applicant has satisfied all four items and it is appropriate to grant the petition under 37 CFR 1.47(a).

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.47(a) is GRANTED.

The application has an international filing date of 07 May 2004 under 35 U.S.C. 363, and will be given a date of **10 August 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision.



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